

# STATUS OF HUMAN RIGHTS & SANCTIONS IN MYANMAR

## JUNE & JULY 2015 REPORT

**Summary.** This report reviews the June and July 2015 developments relating to human rights in Myanmar. Relatedly, it addresses the interchange between Myanmar’s reform efforts and the responses of the international community.

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## **I. International Community and Sanctions**

United Nations officials reflected on an apparent schism occurring at the higher levels of the supranational organization over how to handle Myanmar's Rohingya minority following the recent attention cast on the "boat migrant" issue.<sup>1</sup> Jordan's Zeid Ra'ad Al Hussein, recently-appointed high commissioner for human rights, along with the United States ambassador, is pushing for a strongly human rights-oriented approach to the issue, while Yangon's ranking domiciled UN official and a senior Indian diplomat are advising a tempered, more gradual approach keyed toward development.<sup>2</sup> The different approaches have been pointed to by some as evidence of a lack of solidarity and perhaps even the absence altogether of a coherent plan to address the stateless group who have also been effectively abandoned by neighboring Bangladesh.<sup>3</sup>

The tension began at the end of May, when Zeid Ra'ad Al Hussein delivered a report to the UN Security Council detailing the systematic discrimination faced by the Rohingya, prompting an irritated and swift response from Speaker of Parliament Shwe Mann, who called for the "exercise [of] great care to avoid creating misconceptions about [Myanmar] and aggravating communal tensions and conflict."<sup>4</sup> A majority of UN workers currently in Myanmar are said to be generally in favor of a gentler approach, although a few have expressed support for Zeid Ra'ad Al Hussein's tougher tack.<sup>5</sup>

The U.S. continues to push on the Rohingya issue, urging Myanmar to recognize the group as citizens and treat them accordingly, with both Assistant Secretary of State Anne Richard and President Barack Obama stressing the need to end discrimination.<sup>6</sup> Richard called for all of Myanmar's ranking politicians to address the issue, perhaps an indirect admonition to Aung San Suu Kyi to proactively address the hardships faced by the Rohingya and other ethnic minorities, an approach she has thus far avoided.<sup>7</sup> Although Richard said that sanctions were not currently being considered should Myanmar fail to take steps to address the issue, she did note that sanctions were "in the diplomatic toolbox."<sup>8</sup> The reaction from Myanmar was predictable irritation, with delegation head Htein Lin responding, "You cannot single out my country."<sup>9</sup> "There have been accusations that those boat people are from Myanmar....most boat people drifting in the sea are not from Myanmar, but from one of our neighboring countries," he explained, following an emergency meeting in Bangkok held in late May.<sup>10</sup>

## **II. Civil and Political Rights**

### **A. Election-Related Laws and Acts**

On June 20, Myanmar's opposition leader Aung San Suu Kyi said her party, the National League for Democracy ("NLD"), would decide soon whether to participate in the November elections.<sup>11</sup> On July 11, she confirmed her party would run, but did not provide any details regarding who their candidate would be.<sup>12</sup> Myanmar's constitution bars Suu Kyi from being the president nominee because her sons are British citizens.<sup>13</sup> The last election in which the NLD participated was in 1990 when it won by a landslide but was not allowed to take power.<sup>14</sup>

President Thein Sein has made statements suggesting he is committed to a fair election.<sup>15</sup> He was quoted saying, "As the first civilian government in many years, we have a responsibility and we promise to try our best to ensure that the upcoming general election is clean, free and fair,"

in a national radio address a day after the election date was confirmed.<sup>16</sup> A former general, President Tein Sein has been applauded by the international community for political and economic reforms that have lessened the country's isolation, sparking the end of many Western sanctions.<sup>17</sup> However, as elections approach, there is some concern that Myanmar might be back-peddalling on its democratic transition.<sup>18</sup>

The country's most powerful military leader, General Min Aung Hlaing said the military would "respect the election result," but made clear that giving control to the civilian government would need to wait until ceasefire deals are reached with all of Myanmar's ethnic armed groups which he predicted could take five to ten years.<sup>19</sup>

In addition to the problems arising from armed conflicts, many states face issues with voter lists.<sup>20</sup> Suu Kyi raised doubts about the freeness and fairness of the election because of the large number of mistakes in these lists.<sup>21</sup> Voter rolls went on display in ward offices across 10 states and regions on June 22 and voters had until July 5 to ensure their accuracy.<sup>22</sup> Errors were corrected by submitting the relevant form to the ward office.<sup>23</sup> The NLD released an open letter to the Union Election Commission ("UEC") saying the voter lists that went on display in the second phase of the electoral roll project featured error rates ranging from 30 to 80 percent.<sup>24</sup>

The UEC later admitted problems inserting some 30 million names into electoral lists, but noted that voters could make corrections.<sup>25</sup> NLD representatives met with officials from the UEC to discuss voter list errors.<sup>26</sup> The NLD issues centered around two overarching themes: the mismanagement among ward- and village-level election sub-commissions and the effective loss of voting rights in the case of citizens without an official household list.<sup>27</sup> Some sub-commissions restricted access to the voter lists when they were supposed to be on public display, while others posted the lists but left the electoral offices locked.<sup>28</sup> Yet other sub-commissions failed to display the lists at the times they were supposed to do so.<sup>29</sup> Citizens without an official household list could include such people as squatters and migrant workers, even if they hold a citizenship identity card.<sup>30</sup> Furthermore, the lists included many people who are deceased and omitted many living voters.<sup>31</sup>

The NLD is not the only party with concerns about voting. Sai Nyunt Lwin, Secretary of the Shan Nationalities League for Democracy, one of two main ethnic parties in Shan State, told a forum in Yangon that his party was concerned that voting could be cancelled in areas where pro-government parties are seen as having little chance of winning, as happened in the 2010 election.<sup>32</sup>

In Rakhine State, electoral officials posted voter lists for public inspection ahead of the November general elections in which several hundred thousand Rohingya Muslims who hold only temporary ID documents (referred to as "white cards") were not included.<sup>33</sup> In the 2010 general election and 2012 by-election, white card holders were allowed to vote.<sup>34</sup> This past February, the government declared the white cards invalid and the Constitutional Tribunal has ruled that temporary ID holders cannot vote.<sup>35</sup> Preventing the Rohingya Muslims from voting could help the Rakhine National Party, dominated by Rakhine Buddhists, sweep all seats in the state in November for the parliament and state assembly.<sup>36</sup>

Although some of the ethnic parties have similar concerns to those of the NLD, they are not all necessarily aligned with the NLD. Certain Buddhist groups such as the Committee for the

Protection of Race and Religion stated that a NLD election win would harm “race and religion”.<sup>37</sup> Suu Kyi said that such statements are in breach of the Constitution because religion cannot be used in politics.<sup>38</sup> The NLD is considered vulnerable on the topic of race and religion because its senior members have been advocating for human rights for all, including non-Buddhists.<sup>39</sup>

In spite of some tension amongst the parties, there has been an effort on their parts to ensure a fair election. In preparation for the November general election, 67 political parties have pledged to uphold standards of conduct in their campaigns.<sup>40</sup> In a ceremony on June 26, they signed a code of conduct forbidding personal attacks on each other or threats to national unity by fueling regionalism and racism.<sup>41</sup> The code is not legally binding, but any party accused of breaching the code may be publicly denounced.<sup>42</sup>

## **B. Press and Media Laws/Restrictions and Freedom of Association**

Myanmar newspapers and TV channels are ignoring errors in the preliminary voter lists that have been unveiled across the country, which include incorrect names, birthdays and national registration numbers; inclusion of deceased people and those without a number; and exclusion of eligible voters.<sup>43</sup> Based on the estimate by the NLD that 30 to 80 per cent of the data is incorrect in a 32-township sample, 8.7 million out of nearly 29 million eligible voters have incorrect data if the level of errors is 30 per cent and 23.2 million if it is 80 per cent.<sup>44</sup>

Myanmar’s Ministry of Information has pursued contempt charges against 17 editors of a local newspaper for reporting on its own legal proceedings in a separate defamation case brought by the government.<sup>45</sup> Minister of Information Ye Htut explained that the paper’s coverage of the proceedings put “pressure” on the court; defense lawyer Thein Than Oo predicted that similar suits would follow as elections near, since the government will put pressure on activists, journalists and others who oppose them.<sup>46</sup>

Myanmar reporters have been banned from meetings of both houses of the legislature; journalists now watch the proceedings on a television monitor outside the chambers, broadcast exclusively by state-media.<sup>47</sup> The decision was prompted by photographs published by the Myanmar Post Global that appeared to show a military lawmaker voting on behalf of his absent colleagues.<sup>48</sup> Brigadier-General Tint San—a Lower House lawmaker for the military—sent Speaker Shwe Mann a letter on behalf of the Lower House military contingent, explaining that the two military representatives absent in the photographs were attending a joint bill committee meeting and had instructed their colleagues to cast votes for them, adding that it would not happen again.<sup>49</sup> He further requested a media ban, which Speaker Shwe Mann believed to be “suitable and fair.”<sup>50</sup>

On July 10, three activists were found guilty of violating Myanmar’s Peaceful Assembly Law by holding a prayer session without permission and were sentenced to four months in prison.<sup>51</sup> The three activists were joined by others to pray for the safety of the students participating in the grassroots student movement protesting a new National Education Law.<sup>52</sup> Two days earlier, five members of the Tavoy (Dawei) University Student Union were sentenced to one-month imprisonment or a 30,000 kyat (US\$33) fine for organizing a protest.<sup>53</sup> In the same week, several student activists, including Ko Zeya Lwin, were arrested for protesting against a decision

by parliament to block constitutional reform which would ease military control and allow the NLD leader, Aung Sun Suu Kyi to run for President.<sup>54</sup>

On July 21, a Myanmar court fined a newspaper's chief editor and deputy chief editor 1 million kyat (US\$809) each after finding them guilty of violating the country's media law by insulting the President.<sup>55</sup> Press freedom advocates believe the case to be an effort to intimidate the media ahead of November's scheduled general election.<sup>56</sup>

On July 22, student leader Ko Ko Gyi and four other activists were found guilty of breaching Myanmar's Peaceful Assembly Law and sentenced to 21 days in prison or a fine of 10,000 kyat (US\$8.30).<sup>57</sup> The activists' charges stemmed from a small march through the site of a condominium development; the protesters sought to halt the construction and restore the public park that existed previously.<sup>58</sup>

On July 30, President Thein Sein issued a presidential pardon of nearly 7,000 prisoners, including journalists and social activists.<sup>59</sup> Among them were the owner, publisher and three journalists from a privately-run weekly journal, Bi Mon Te, who were sentenced to two years last November on charges of causing public alarm.<sup>60</sup>

### **C. Official Corruption**

Aung Thaung, a senior politician who was implicated in violence against dissidents and accused of widespread corruption, died on July 23 in Singapore, according to reports.<sup>61</sup> A military veteran and close associate of Than Shwe, who led Myanmar's governing junta from 1992 to 2011, Aung Thaung was the country's industry minister from 1997 to 2011.<sup>62</sup> He was accused of using that position to financially benefit himself, his family and aides.<sup>63</sup> The Irrawaddy said he was believed to be one of Myanmar's wealthiest men.<sup>64</sup>

Aung Thaung was placed on the U.S. Treasury Department's "blacklist", which accused him of undermining the country's transition to democracy through corruption and other means.<sup>65</sup> In addition, he was a leader of the junta's political wing, the Union Solidarity and Development Association, which was accused of a 2003 attack in the country on a motorcade of pro-democracy figures.<sup>66</sup> Dozens were reported killed.<sup>67</sup>

### **D. Miscellaneous**

#### **Race and Religion Laws**

As we reported in our March-April 2015 report, the International Commission of Jurists ("ICJ") and Amnesty International made a fresh appeal to Myanmar's parliament to reject or extensively revise a series of proposed laws that would entrench already widespread discrimination and risk fueling further violence against religious minorities.<sup>68</sup> A package of four laws described as being aimed at "protect[ing] race and religion" has passed multiple stages in the parliamentary approval process and includes provisions that are deeply discriminatory on religious and gender grounds.<sup>69</sup>

On July 7, the Buddhist Women's Special Marriage Law was passed by a vote of 524 to 44 (with eight abstentions) by both Houses of Parliament sitting in a joint session. The final version

of the bill has not been made public. The legislation now goes to President Thein Sein for his signature.

According to Human Rights Watch,<sup>70</sup> the bill targets Buddhist women who seek to marry non-Buddhist men and introduces vaguely defined acts against Buddhism as grounds for divorce, forfeiture of custody and matrimonial property and imposes potential criminal penalties. According to Phil Robertson (Deputy Asia Director), “The Special Marriage Law is a blatant attempt to curb interfaith marriages with absurd claims of helping Buddhist women.”<sup>71</sup>

The law permits the district level registrar to publicly display a couple’s application for marriage for 14 days and permits any objections to the marriage to be taken to local court.<sup>72</sup> The law places further discriminatory restrictions on women under age 20, who, in addition, are required to obtain consent from their parents or legal guardian to marry a non-Buddhist.<sup>73</sup>

According to analysts, the Special Marriage Law contravenes Myanmar’s treaty obligations under international law, as the International Covenant on Civil and Political Rights upholds the right to marry and to have a family without discrimination on religious or other grounds.<sup>74</sup>

Two remaining draft laws – on religious conversion and monogamy – are still being debated in Parliament, with the “Population Control law” (the fourth element of the new “protect race and religion” package) having been signed into law this past May.<sup>75</sup> It empowers authorities to limit the number of children members of any designated group can have.<sup>76</sup>

According to Human Rights Watch, there are concerns that Parliament and the President are pandering to extremists in the run up to the November national election with such legislation a prime example of this nationalistic move.<sup>77</sup>

### Rohingya Muslim Minority

Regardless of who holds power after the November elections, the increase of violence against ethnic and religious groups is regarded by many observers as a direct consequence of the reform process, which has now been put into jeopardy by a wave of racist violence. One of the most visible incarnations of this development is the ongoing campaign against the Rohingya Muslim minority.

The Rohingya people predominately live in a corner of Rakhine State, but many are now risking their lives by seeking refuge elsewhere.<sup>78</sup> While the Rohingya have endured persecution in Myanmar for decades, the conditions they face have worsened of late. The government continues to deny them citizenship and they now have to contend with a militant ultra-nationalist Buddhist movement called Ma Ba Tha, led by Wirathu, a monk who was himself a former political prisoner before being freed in 2010. Wirathu has been implored to tone down his rhetoric by no less a personage than the Dalai Lama himself.<sup>79</sup>

The Rohingya have been described by the UN as among the most persecuted minorities in the world, with Myanmar having recently been labelled the world’s eighth most dangerous state for religious and ethnic minorities to live in.<sup>80</sup>

Wai Wai Nu, a 27-year-old Rohingya and political activist, recently met with President Obama to call on the Americans to intervene. In an interview after her meeting with President Obama she explained: “We’re experiencing a deterioration of human rights violations in every sector... There should be a return to sanctions.”<sup>81</sup>

In 2013, the U.S. began suspending some of its long-standing sanctions against Myanmar’s military regime. Wai Wai Nu wants to see some of those restrictions return — specifically the ones that target certain regime figures with visa bans. That is the only way, she believes, to ensure that the government will stick to its promise to allow a free and fair election and, ultimately, reduce recent ethnic and religious violence. “We appreciate the U.S. concern about our country and our cause — but we should have more concrete action, rather than just expressing worries in a statement.”<sup>82</sup>

If Myanmar is ever to fully respect human rights it will have to confront its so-called “identity politics”. That will be no easy task given how deep and raw the wounds of religion and ethnicity still are for many in the country. The reality of identity politics poses a fundamental threat to the reform process in Myanmar.<sup>83</sup>

### Headscarves

The Organization for the Protection of Race and Religion, known by the Myanmar acronym Ma Ba Tha (as referred to above), is gaining ground in Myanmar according to the English newspaper, *The Guardian*. It also received increased international attention last month for its proposal to ban Muslim headscarves in public schools.<sup>84</sup> In a list of recommendations released in mid-June, Ma Ba Tha told its members to lobby the government to ban Muslim students from wearing the burqa in government schools.<sup>85</sup>

Explaining the move, Ma Ba Tha monk Pamaukkha said: “When [Muslims] live in Myanmar, they need to obey the law and regulations of the country. We are not targeting or attacking their religion.”<sup>86</sup> The group also said it would “show the people the right track” when it came to the November elections, encouraging people to vote for candidates who “will not let our race and religion disappear”.<sup>87</sup>

The group of monks is at the forefront of the nationalist movement that threatens to overshadow gains made by Myanmar’s reformers, with many suggesting it has the backing of an anti-reform faction amongst the ruling elite.<sup>88</sup>

David Mathieson, a senior researcher on Myanmar for Human Rights Watch, said: “The Ma Ba Tha have become an unaccountable and arrogant political force based on extremist religious and social views, like a fifth column using Buddhism to serve shady political and economic interests.”<sup>89</sup>

### **III. Constitutional Reform**

On June 25, after three days of debate, Myanmar’s Union Parliament voted against key amendments to the nation’s Constitution, effectively retaining the military’s political dominance and blocking Aung San Suu Kyi’s presidential bid in the upcoming 2015 elections.<sup>90</sup>

The vote considered amendments to several controversial provisions of the Constitution, including two provisions that are widely viewed as especially problematic. First, the Union Parliament rejected a proposed amendment to Article 59(f), which prohibits anyone with close family members who owe allegiance to a foreign power to run for the office of president.<sup>91</sup> The clause is largely viewed as a deliberate attempt to keep Aung San Suu Kyi, whose sons are British citizens, out of office, and in effect will continue to disqualify her from the presidency for purposes of the 2015 elections.<sup>92</sup> Second, Parliament rejected a proposed amendment to Article 436, which requires that constitutional amendments be approved by more than 75% of Parliament.<sup>93</sup> A separate constitutional provision reserves at least 25% of Parliament seats for military officials, granting the military an effective veto power over any constitutional change.<sup>94</sup> The proposed amendment would have reduced the approval threshold for constitutional amendments to 70%, thereby eliminating the military's de facto veto power.<sup>95</sup> However, the failure to amend this super-majority voting provision means the military's veto power over constitutional change will remain.<sup>96</sup>

The amendments were blocked in a secret ballot vote, attended by 583 Members of Parliament.<sup>97</sup> Approximately 67% of the lawmakers in attendance voted in favor of the amendments, short of the 75% approval required for passage.<sup>98</sup> Had lawmakers voted in favor of the amendments, the next step would have been a national referendum on the proposed amendments, which would have become law if they had received majority support from Myanmar's citizens.<sup>99</sup>

Describing the rejection of the constitutional amendments as "not a shock," Han Tha Myint, a senior member of the NLD, said the party would now decide whether to contest the 2015 elections or whether to boycott the elections as the party did in 2010.<sup>100</sup> If the party does decide to put up candidates, Han Tha Myint said the NLD would try again to amend the constitution after the 2015 election, noting that he expects the NLD to have significantly greater Parliamentary representation following the elections, based on NLD polling data.<sup>101</sup>

#### **IV. Governance and Rule of Law**

As described more fully in Section III above, efforts to amend the Myanmar constitution were blocked by parliamentary vote on June 25. NLD leader Aung San Suu Kyi spoke to the press afterwards and expressed her view that the outcome had been inevitable, saying "[i]t is not a strange result. It's nothing special to be surprised about."<sup>102</sup> She took the opportunity to highlight to potential voters in the 2015 elections the parties supportive of constitutional change in Myanmar as opposed to the staunch opposition of the military-backed incumbents, but also stressed that supporters of reform should address matters "within the framework of law" and not put themselves in harm's way by protesting.<sup>103</sup>

Suu Kyi also distanced herself and the NLD from the Union Solidarity and Development Party ("USDP")'s proposed amendments, saying that while the NLD sought changes to the constitution, they did not agree with the specific changes proposed by the USDP.<sup>104</sup> In particular, the USDP's proposals had not properly approached an amendment that would have allowed Suu Kyi to contest the presidency.<sup>105</sup> Furthermore, she said that she had given up on previously



anticipated talks with President Thein Sein and other parties intended for discussion of constitutional reform; in the end, only one such meeting had taken place.<sup>106</sup>

Civilian Members of Parliament voted overwhelmingly in favor of the amendments with some 88 percent of civilian MPs (two-thirds of the total MPs) supporting the changes, but it was not enough with the military MPs voting uniformly against them.<sup>107</sup> Indeed, one proposed change would have stripped the military's ability to unilaterally block further amendments by reducing the number of MP votes required to approve a constitutional amendment from the current greater than 75 percent – an effective veto right for the military which accounts for 25 percent of MPs.<sup>108</sup>

Suu Kyi may not be eligible to run for the presidency, but her party is still capable of winning the upcoming elections and say that they have made plans for such an eventuality, even though they have not announced an alternative presidential candidate.<sup>109</sup> One announced move would be to amend the Constitution, something that the NLD has made no secret of.<sup>110</sup> In any event, a win for the NLD would only increase their negotiating power as long as the military-affiliated MPs accept the results, by no means a foregone conclusion given the refusal to accept a similar outcome following the 1990 elections.<sup>111</sup>

Notably for those concerned with the ongoing plight of the Rohingya, Suu Kyi has avoided the primarily Rohingya area of Rakhine State as her party continues to campaign across the country ahead of the polls.<sup>112</sup> This attempt to distance herself from the Muslim minority – Suu Kyi has not publicly used the controversial term “Rohingya” to refer to them – is calculated to avoid backlash from the country's Buddhist majority.<sup>113</sup> Although Suu Kyi and the NLD have not advocated for better treatment of the Rohingya, generally even mentioning the group risks earning the ire of many Rakhine State Buddhists.<sup>114</sup> It may be too late for the NLD to mitigate the party's perceived sympathy in Rakhine State: regional NLD party head San Shwe Tun says that party members have come under threat and are seen to “represent[] the Muslims.”<sup>115</sup>

Interestingly, the *New York Times* reports difficulties translating many political words and concepts – including the vaunted phrase, “rule of law” – into the Myanma language.<sup>116</sup> Many English words, including “democracy,” “federal” and “globalization,” lack a native equivalent, adding an unusual wrinkle to the normal difficulties of political discourse and reform.<sup>117</sup> This may have its origins in cultural differences, but was certainly exacerbated by the previous military junta's opposition to the use of English loan words.<sup>118</sup> “Rule of law,” perhaps more than any other phrase a catchphrase of Suu Kyi's NLD, itself bears a stronger resemblance to concepts of subjugation and obedience to authority, according to one Myanma commentator.<sup>119</sup>

## **V. Political Prisoners**

As of the end of May, the number of political prisoners rose from 157 to 163,<sup>120</sup> and as of the end of June, the number rose again to 169, according to the Assistance Association of Political Prisoners.<sup>121</sup>

49 people were charged with political offences in May, of which 41 were detained.<sup>122</sup> The majority of the increase was due to the arrest of 32 people for charges under the Unlawful Associations Act for their alleged contact with the Arakan Army in Rakhine State.<sup>123</sup> The lawyers

for the defendants claim that their clients were beaten by police during interrogation.<sup>124</sup> Meanwhile, eight detainees were released for having no involvement with the Arakan Army.<sup>125</sup>

The United Nations has spoken out against a two-year prison and hard labor sentence for Htin Lin Oo, a columnist who was charged with insulting religion for delivering a speech discouraging Buddhist extremism.<sup>126</sup> The Office of the UN High Commissioner for Human Rights has urged the columnist's release, encouraging rights to freedom of expression and opinion and warning Myanmar that creating "a new generation of political prisoners" is not aligned with the democratic reforms made in the past two years.<sup>127</sup> Another source noted that Htin Lin Oo criticized Buddhist monks who had given hate speeches, which led to the charges and guilty verdict.<sup>128</sup> By imprisoning those who speak out against religious intolerance like Htin Lin Oo, the government is compounding the problem of hateful rhetoric by extreme Buddhist nationalists.<sup>129</sup>

Some appeals for prisoners' justice have been heard, as on July 30, Myanmar released nearly 7,000 prisoners by way of a presidential pardon.<sup>130</sup> However, as of the end of July, it was unclear how many of those released were political prisoners in particular.<sup>131</sup>

## **VI. Economic Development**

### **A. Developments in the Legal Framework of Economic Development**

Myanmar's Investment Commission ("MIC") is considering a plan to delegate decisions on certain investment projects to state and regional authorities.<sup>132</sup> One of the rationales for the change, according to the director general of the Directorate of Investments and Company Administration ("DICA"), is for state and regional authorities to become more vested in reforming their economies.<sup>133</sup> The change will require amendments to Myanmar's existing Foreign Investment Law of 2012 and Citizens Investment Law of 2013, which currently do not authorize state and regional governments to grant investment approvals.<sup>134</sup>

Myanmar also continues to consider a new "combination" law that would combine the Foreign Investment Law and the Citizens Investment Law into one statute, which, among other things, is expected to streamline and improve foreign investment, including setting equal taxes levied on foreign investments.<sup>135</sup> A revision of the Myanmar Companies Act is also being sought.<sup>136</sup>

### **B. Developments in Foreign Investment and Economic Development Projects**

Myanmar's Customs Department has gained the support of the Asian Development Bank ("ADB") for its plan to develop an "Authorized Economic Operators" scheme, which would simplify and expedite the release of imported and exported goods.<sup>137</sup> Myanmar customs officials are in the process of identifying accreditation criteria and trade facilitation measures for the scheme. ADB officials have been providing the Customs Department with technical assistance in further developing the scheme.<sup>138</sup>

In June, Aung San Suu Kyi led a delegation of members of the NLD to China, where they met with President Xi Jinping and other senior Chinese officials.<sup>139</sup> It was the first visit by Suu Kyi to China, marking another step toward improved Sino-Burmese relations.<sup>140</sup>

In early July, Myanmar's communications and technology ministry granted a 15-year license to software giant FPT, which will become the first wholly-owned foreign-owned firm to operate in the country's telecommunications sector.<sup>141</sup>

Citi and Standard Chartered Bank were recently appointed by Myanmar as the country's sovereign credit ratings advisors, which will act as "a bridge between the Myanmar Government and the ratings agencies, namely Standard & Poor's, Fitch Ratings and Moody's."<sup>142</sup> In addition, the advisors "will support Myanmar's efforts to enhance data collection and improve investor outreach."<sup>143</sup>

### **C. Land Seizures**

A national forum to discuss a draft national land use policy, which will create a framework for a new national land law, was held on June 29 and 30.<sup>144</sup> The process of writing a national land use policy began in 2012; steered by the Land Use Scrutiny and Allocation Central Committee, a draft was first released to the public in October 2014.<sup>145</sup> Initially, only two months of consultation on this 2014 draft were scheduled.<sup>146</sup> Public outcry at the truncated timetable prompted the Committee to extend the discussion process.<sup>147</sup> Since then, the Committee has held 17 public meetings and two expert meetings to discuss the policy.<sup>148</sup> The June 29 and 30 forum was the final discussion meeting.<sup>149</sup>

Discussion at this final forum was dominated by the topic of what rights ethnic community organizations and other similar groups would enjoy under the policy.<sup>150</sup> The forum made several key decisions, including: (1) representatives of farmers' organizations will be included in the National Land Use Council; (2) ethnic ancestral land will be re-categorized in accordance with the new land law; and (3) traditional dispute settlement practices will be used (although they may not contravene land use law as interpreted by the courts), and representatives of ethnic groups will participate in these practices.<sup>151</sup> Ethnic groups also demanded the inclusion of representatives at the decision-making level, but others at the forum resisted the idea, concerned that their participation could "obstruct justice in inter-ethnic disputes, as the larger ethnic groups could dominate the decisions."<sup>152</sup> The forum agreed to send this and other demands of concern as an attachment to the draft policy to the Committee.<sup>153</sup> It is unclear whether the forum's decisions are binding upon the Committee.

Initial reactions to the forum were positive. A non-government participant, Thein Win, a member of the township assistances committee in Pyawbwe, stated: "This is the first time I've ever seen [civil society] participating in formulating a national policy. I'm happy and pleased to get a chance to give my opinions."<sup>154</sup> An official from the Ministry of Environmental Conservation and Forestry gave a similar opinion: "We held this forum to help us arrive at a consensus. Now we have it."<sup>155</sup>

In more regional news, the Greater Yangon Strategic Plan 2040 was approved by the regional parliament amid widespread criticism.<sup>156</sup> This is a plan to build new towns at seven different sites.<sup>157</sup> Concerns about the plan include deals favoring friends of the regional government and unlawful land seizures.<sup>158</sup> The mayor responded that there would be no forced seizures of farmland: "The proposal is just a concept, not a detailed plan," he explained.<sup>159</sup> "Only

getting the green light from parliament will we conduct a socio-economic survey and choose the sites. It will take time to draft a detailed plan.”<sup>160</sup>

Land seizures remain in both the national and international spotlights. Su Su Nway, a prominent rights activist and former political prisoner, was arrested and jailed this month after meeting farmers protesting against the military’s seizure of their lands.<sup>161</sup> She was arrested by police in Bago Region while on her way back to Yangon from Nyaunglebin township, where farmers are trying to get back land they say has been occupied by a military arms factory.<sup>162</sup> A court charged her with trespassing and sent her directly to Bago Prison.<sup>163</sup> She turned down the court’s offer of bail and denied the charges.<sup>164</sup>

A coalition of 24 indigenous rights organizations, called the Coalition of Indigenous Peoples in Myanmar/Burma, intends to make a submission on the plight of indigenous communities in Myanmar at the 23rd session of the Universal Periodic Review Working Group in Geneva, Switzerland to be held in November.<sup>165</sup> Land use policy will be a major focus of the submission, as many ethnic peoples’ lands have been seized.<sup>166</sup> The coalition said the current draft national land use policy gives special privileges to business investors that could lead to more land grabs in the country and is vague regarding the land use rights of ethnic nationalities.<sup>167</sup> The coalition called for amendments to the policy and to other legislation to ensure they accommodate “the collective rights of indigenous peoples to their lands, territories, and natural resources, including customary land use practices with regard to forests, rivers, and other land, as well as agricultural land.”<sup>168</sup> The director of the Mon Media Institute stated that the Myanmar army has seized more than 18,000 acres of land in Mon state between 1995 and December 2014.<sup>169</sup>

## **VII. Ethnic Violence**

### **A. Violence Against Muslims**

The struggle of Rohingya Muslims continued to receive international attention throughout the month. In mid-June, the Myanmar government announced its intention to prevent the departures of migrants, who are predominantly Rohingya, fleeing religious persecution by boat, but has refused to take further steps to address the situation prompting such exodus.<sup>170</sup>

In an interview with the *Washington Post*, Aung San Suu Kyi broke her silence on the topic, to state that the issue should be addressed “very, very carefully and as quickly and effectively as possible”, before confirming that it was an “extremely complex situation, and not something that can be resolved overnight.”<sup>171</sup>

In relation to international support, on June 20, Japan announced that it would provide US\$3.5 million in emergency aid, predominantly to support the Rohingya “boat people”, those migrants who have been left adrift at sea whilst fleeing the conflict.<sup>172</sup> This is Japan’s first financial contribution in relation to the crisis.<sup>173</sup> Further support and funding in the amount of US\$5 million has been granted by the government of Pakistan.<sup>174</sup>

Protests against the treatment of the Rohingya have also continued across the Muslim world.<sup>175</sup> At a conference in Kuala Lumpur, former Malaysian Prime Minister Mahathir Mohamad stated that Myanmar should be charged under international law and stripped of its membership in

ASEAN for permitting “genocide” against the Rohingya. These comments have been condemned by the Myanmar government.<sup>176</sup>

A meeting of the Organisation of Islamic Cooperation (“OIC”) at the UN headquarters in mid-June resulted in a decision to bring the plight of the Rohingya into greater focus, with a delegation of the OIC set to meet with the UN Secretary General.<sup>177</sup> A report issued by the UNHCR on June 18 claims that 479,000 refugees left Myanmar in 2014 and that there were approximately one million stateless persons in the Rakhine State alone as at the end of 2014.<sup>178</sup>

The vulnerability of the displaced Rohingya to human trafficking organizations remains evident, with many Rohingya reportedly still being adrift on several trafficking boats in international waters.<sup>179</sup> On June 8, Malaysian police reported that they had uncovered the bodies of 106 suspected human trafficking victims close to the Thai border, suspected to be Rohingya and Bangladeshi.<sup>180</sup> Over US\$1.01 million in assets was seized from suspected human traffickers in a separate incident, believed to belong to a broker accused of trafficking Rohingya.<sup>181</sup> Further, an arrest warrant was issued by the Thai courts for a senior army officer, also accused of involvement in the trafficking of Rohingya migrants.<sup>182</sup>

According to local prison authorities in Arakan State’s Buthidaung Township, more than 100 “Bengalis” (the government’s official term for the Rohingya) were released in early July after serving the duration of their sentences in connection with violence between Buddhists and Muslims that took place in 2012.<sup>183</sup>

A recent article in the *New York Times* shed light on the plight of Rohingya women fleeing violence in Myanmar, and their vulnerability to being forced into arranged marriages as a means to pay smugglers.<sup>184</sup> As the article notes, the precise number of victims is difficult to gauge, but officials and activists estimate that in recent years hundreds, if not thousands, of Rohingya women every year have been married off as the price of escaping imprisonment or violence at the hands of those who smuggle them out of Myanmar, while others are tricked or coerced into arranged marriages.<sup>185</sup> Additionally, the recent surge of migrants from Bangladesh and Myanmar this year has, according to the UN High Commissioner for Refugees, resulted in an increase in “abductions and marriages arranged without the consent of women whose passage was ultimately paid for by prospective husbands.”<sup>186</sup>

## **B. Violence Between the Union Government and Ethnic Rebel Groups**

On June 9, Kokang rebels (also known as the National Democratic Alliance Army (“NDAA”)) declared a unilateral ceasefire against government troops in response to appeals from China for peace.<sup>187</sup> In spite of this, government forces continued their attacks, reportedly in order to secure the Kokang region ahead of the elections in November.<sup>188</sup> Reports from the spokesman of the NDAA suggested that in the few days following the ceasefire, one NDAA soldier was killed, together with 10 government soldiers.<sup>189</sup>

As the conflict reached its fourth year anniversary,<sup>190</sup> clashes between government forces and the Kachin Independence Army (“KIA”) continued into June, driving villagers from their homes and into hiding.<sup>191</sup> Further fighting has reportedly resulted in the capture by the government forces of “several KIA posts”, with one KIA fatality.<sup>192</sup>

Clashes that reportedly first erupted at the end of June in Karen State between the government army and Karen rebels over illegal tax stations continued in July.<sup>193</sup> According to a state media report, four soldiers of the Democratic Karen Benevolence Army were killed and three others detained, and “some army officers” were killed during the course of nearly 40 clashes.<sup>194</sup>

### C. Peace Talks

Discussions to reach a ceasefire agreement reached a stumbling block in early June, where, at a summit held by ethnic armed group leaders, such leaders established a new negotiating body to replace the Nationwide Ceasefire Coordination Team (“NCCT”), who had up to that point represented the ethnic groups in negotiations with the government’s team, the Union Peace-Making Work Committee (“UPWC”).<sup>195</sup>

The new body, which has yet to be named, is regarded by the UPWC as “hardliners”<sup>196</sup> in comparison to the NCCT, and the UPWC are reportedly reluctant to accept any further amendments to the draft ceasefire agreement.<sup>197</sup> There are now fears that the ceasefire agreement negotiations will be delayed until after the election.<sup>198</sup>

The peace talks held in July between the government and armed ethnic groups ended without finalizing a peace accord, due to disagreement over the exclusion of six rebel groups and ethnic-proposed amendments.<sup>199</sup> Negotiations will resume in August.<sup>200</sup>

Leaders of the Restoration Council of Shan State (“RCSS”), the Karen National Union, the Democratic Karen Benevolent Army and the Karen Peace Council met with President Thein Sein and General Min Aung Hlaing in early August ahead of the talks scheduled for August.<sup>201</sup> Topics of discussion included federalism, security sector reform and the “contentious” process of disarmament, demobilization and reintegration.<sup>202</sup> Colonel Sai La of the RCSS, who attended the meetings, indicated that also among the topics of discussion were guarantees for those groups which are not included in the Nationwide Ceasefire Agreement (the “NCA”).<sup>203</sup> According to Sai La, the government “said they would negotiate with those who had declared not to sign the NCA to include them in the process.”<sup>204</sup>

The government currently accepts at least 14 ethnic armed groups, as well as the All Burma Students’ Democratic Front, as signatories to the NCA; three of these groups (the United Wa State Army, the National Democratic Alliance Army and the National Socialist Council of Nagaland-Khaplang) have indicated that they would not sign an agreement but would participate in political dialogue.<sup>205</sup> As noted above, six groups (including the Ta’ang National Liberation Army, the Myanmar National Democratic Alliance Army and the Arakan Army) have been blocked by the government from signing the agreement, although according to Sai La, the government may be open to allowing the Ta’ang National Liberation Army to sign the agreement and may also be open to allowing the Arakan Army to sign if done under the Kachin Independence Army, with which it is allied.<sup>206</sup> Three groups that have been excluded (the Lahu Democratic Union, the Wa National Organization and the Arakan National Council) were deemed not to have sufficiently large armies to warrant designation as combatants.<sup>207</sup> The Senior Delegation, the ethnic groups’ negotiating bloc, has stated that it will not sign the nationwide agreement if certain groups are excluded.<sup>208</sup>

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